

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 27th day of April 2009 A.D. at 7:00 p.m.

Vice-President Arruda opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Donald Bollin-President-Absent	Jay Lambert
	JoAnne Arruda-Vice President	Cecil E. Leonard
	Hannibal Costa	Edward Roderick
	Louise Durfee	

Town Clerk was absent – Minutes by Leona L. Cook, Clerk
Town Administrator, James C. Goncalo
Assistant Town Solicitor, Jeanne Scott were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Councilor Roderick read the items on the Consent Agenda for approval.

Councilor Leonard made a motion, seconded by Councilor Lambert to approve the Consent Agenda. Motion passed on a vote of 4-0-2; Councilor Arruda and Costa abstained from minutes on CA, absent on April 13th.

CONSENT AGENDA

A-1- Approval of Minutes from April 13, 2009 Regular Council Meeting-Councilor Arruda abstained, not present

A-2- Receipt of Minutes from the Following Boards, Commissions

- | | |
|------------------------------------|--------------------------|
| a. Open Space Commission (Revised) | e. Wastewater Management |
| b. Economic Development | f. Board of Canvassers |
| c. Arts Council | g. Harbor Commission |
| d. Tree Commission (2) | h. Planning Board (2) |

A-3- Correspondence – Receive and File

- a. Received From Town of Jamestown Regarding Resolution Opposing House Bill 5122 Creating Turnpike and Bridge Division Within DOT
- b. Received From Burrillville Town Council Opposing to House Bill 5123
- c. Received From North Kingstown Town Council Regarding Support of the Repeal of the Caruolo Act

A-4-Distribution of Proposed Revisions to Comprehensive Community Plan for May 4th Workshop

A-5-Schedule Public Hearing on Request by Tiverton Power, Inc. for Zoning Map Change on June 8th Council Meeting

- a. **Planning Board Recommendation**

BUSINESS BROUGHT BEFORE THE COUNCIL
FINANCIAL BUSINESS:

Town Administrator– Request Transfer of Funds

a. \$12,000 from Acct#219-520 (Liability Insurance) to Acct #105-359 (Litigation)

b. \$5,000 from Acct # 230-295 (Unfunded Liability) to Acct #105-359 (Litigation)

Councilor Leonard made a motion, seconded by Councilor Costa to approve the transfer of \$12,000 from Account #219-520 (Liability Insurance) to Account #105-359 (Litigation) and \$5,000 from Account # 230-295 (Unfunded Liability) to Account # 105-359 (Litigation). Motion passed unanimously.

Town Administrator – Request Release of Carry Forward Funds - \$5,834.26 in Town Wide Fire Code Upgrade Acct#1-099-098-944 to Pay for Upgrade to Police Station Fire System

Councilor Roderick made a motion, seconded by Councilor Leonard to release funds of \$5,834.26 in the Town Wide Fire Code Upgrade Account #1-099-098-944 to pay for upgrade to Police Station Fire System. Motion passed unanimously.

Town Administrator – Request Transfer of \$13,236.10 From Acct# 102-799 (Town Council Future Needs) to Various Salary Accounts as Attached to Properly Fund the Accounts Effected by the AFSCME Contract From January 1 to June 30, 2009

Councilor Costa made a motion, seconded by Councilor Roderick to transfer \$13,326.10 from Account # 102-799 to the various salary accounts as attached. Motion passed unanimously.

The salary accounts were:

Account	Type	Amount
214-101	Treasurer-Clerical	1099.24
101-101	Town Clerk-Clerical	1558.09
106-101	Building-Clerical	468.00
212-101	Tax Assessor-Clerical	696.16
215-101	Tax Collector-Clerical	714.22
513-100	Maint-Foreman	619.20
513-101	Maint-Custodial	343.21
331-101	Fire Dept-Clerical	1320.96
333-101	Police-Clerical	4889.00
333-102	Police-Overtime	255.70
333-105	Police-Holiday	162.06
334-100	Police-Animal Control	207.20
988-101	Senior Cen-Asst. Dir.	91.84
554-100	Highway Dept-Clerical	405.61
115-101	Planning-Clerical	<u>405.61</u>
	Total	\$13,326.10

APPOINTMENTS & RESIGNATIONS

Appointment of Moderator for Financial Town Meeting, May 9th

- a. Michael S. Burk
- b. Michael C. Smith

The Council conducted interviews on the requests to be appointed Moderator for the May 9,2009 Financial Town Meeting (FTM). Mr. Burk, as a former School Committee Member, was familiar with Robert's Rules of Order. Parliamentarian for national groups Previous chair of non-profit agencies and their committees. Conducted meetings for a condo association of 600 members in Milford, MA. Aware

of the contentious history, important to have structure at the Town Meeting to maintain order, to be fair and attentive, and a reasonable facilitator. Voting machines can be helpful, meeting needs to move along. Moderator is the arbiter.

Mr. Smith was a Moderator for the First Baptist Church, Robert's Rules of Order written for the Church. More than 150 people attended the annual meetings. Had to know Robert's Rules of Order very well. Served as the chair on the Mass. Dept. of Health monthly meetings, also trained as a mediator. Moderator needs to control any meeting; everyone should have a time limit. Read Moderator's Rules in docket. Did not believe a Moderator, who is aware of Robert's Rules, should be told what to do. Procedures fine, order of subjects should be changed. Don't think Council resolutions belong at beginning, should be as new business at end of meeting.

The interviews were concluded and nominations put forth.

Councilor Durfee nominated Michael Burk. Councilor Lambert nominated Michael Smith. One resident expressed concern, FTM should be run as much as can be above reproach, the Moderator should not have bias against a group of electors, concerned with Mr. Burk, respect his zeal, sees a bias. Moderator needs to be someone without bias. Councilor Durfee noted Mr. Burk's cover letter. Previous experience as a Moderator herself, must make sure no one overreaches, needs to be fair order of the day. Sally Black who worked with Mr. Burk on the School Committee, noted he was always fair even if they did not agree, does not see a bias.

Vice-President Arruda called for a vote. The vote was 5-1; Councilor Lambert did not raise his hand. Councilor Arruda announced Michael Burk was appointed Moderator for the May 9 FTM. Council thanked Mr. Smith and urged him to continue to participate in Town Gov't. Councilor requested record add his vote in support of Mr. Burk and can make the vote unanimous. Vote will be recorded 6-0 unanimous.

Mr. Smith questioned the nomination, which did not have a second. Councilor Durfee explained it has been a past practice of the Council to nominate in this manner. The Council's precedent has been nominations are usually put in without a second.

Edmund D'Attelo, Jr., 131 Barnswallow Road –Request Appointment to Economic Development Committee - Vacancy to Fill Unexpired Term to 6/30/2012

Council briefly interviewed Edmund D'Attelo, Jr. on his request to be appointed to the Economic Development Committee. Interested in helping to attract business to Tiverton.

Councilor Costa made a motion, seconded by Councilor Durfee to appoint Edmund D'Attelo, Jr. to the Economic Development Committee to fill an unexpired term to 6/30/2012. Motion passed unanimously,

UNFINISHED BUSINESS

Councilor Leonard – Vote to Establish Major Council Goals Continued From April 13th

Since not all Councilors were present, Councilor Leonard asked to continue this to the next meeting.

Councilor Leonard, made a motion, seconded by Councilor Roderick to carry this forward for two weeks to May 11, 2009. Motion passed unanimously.

Councilor Leonard – Follow Up to Workshop Discussion of Town Website Continued to May 11th for Town Solicitor to Prepare Written Policy

Councilor Leonard made a motion, seconded by Councilor Roderick to carry forward this item to May 11, 2009. Motion passed unanimously.

Councilor Lambert – Request Resolution by Town Council Opposing Any Petition for a Ladder Truck for Tiverton Fire Department Presented at the Financial Town Meeting and Urging Voters to Reject the Same

For purpose of discussion, Councilor Lambert read the petition for a ladder truck.. Councilor Durfee stated the discourse with the recent Charter Amendment, Section 1218- “Use of Town Resources to Influence a Voting Contest-No officer or employee of the Town, including the school Department, shall use, or cause to be used, Town property, goods, money, grants, or labor to influence the outcome of an election, ballot question, Financial Town Meeting, or referendum; the foregoing shall not prohibit the distribution or publication of election, ballot question, Financial Town Meeting or referendum information by the Town Clerk, the Board of Canvassers, or a Charter Review Commission.”

The Charter Amendment is clear-no officer or employee. Councilor Durfee argued against this amendment during the Public Hearing. Concerned with perception that Councilor Lambert was trying to influence a vote with this resolution. The provision is overly broad. Councilor Lambert, there may be merit for the proposal but petition does not allow the process to inform the public, what is to stop any citizen or group, knowing the amount would put the Town over the cap. Several people called, some said Town needs a ladder truck, some said we didn't, and questioned the money, staffing, maintenance and the language.

Due to Durfee's concerns, Councilor Lambert withdrew the proposed resolution.

Councilor Lambert believed the role of the Council was to let the people know what their position is. Councilor Durfee pointed out the broad provision of that amendment prevent the Council from advocating at the Financial Town Meeting, Charter should be revised. Councilor Leonard agreed it was a flawed provision. Councilor Durfee noted the Solicitor's Memorandum, if this petition passes at the Financial Town Meeting, then it would need to be voted on at an election. Councilor Costa agreed with both Durfee and Lambert.

NEW BUSINESS:

Attorney Jeremiah Leary – Request Acceptance of Public Improvements in Ford Farm Subdivision (Including Public Sewers) and Release of Surety

- a. **Memorandum From Tiverton Planning Board**
- b. **Memorandum From DPW Director S. Berlucchi**

Attorney Jeremiah Leary appeared before the Council to request acceptance of Public Improvements in the Ford Farm Subdivision (Including Public Sewers) and release of surety. Memos from the Planning Board and the DPW Director Steve Berlucchi recommended acceptance. Councilor Arruda read a memo, received after the Council packets were distributed, from Director Berlucchi, dated April 23, 2009 which stated: the subject project has been completed and inspected and all work has been performed per plans and specifications. The DPW has no objections to Ford Farm Rd. and Starlit Rd. being accepted as Town owned roads.

Councilor Roderick made a motion, seconded by Councilor Durfee to accept the Public Improvements including sewers and release of surety for the Ford Farm subdivision. Motion passed unanimously.

Councilors Lambert and Leonard addressed problems with unaccepted roads.

Attorney Jeremiah Leary – Request Acceptance of Public Improvements in Indian Rock Estates Subdivision and Release of Surety

- c. **Memorandum From Tiverton Planning Board**
- d. **Memorandum From DPW Director S. Berlucchi**

Attorney Jeremiah Leary also requested the acceptance of Public Improvements in the Indian Rock Estates Subdivision (Tanglewood Drive and Bayberry Lane) and the release of surety. The Council was also given a memo received after the Council packets were distributed, from DPW Director Berlucchi, dated April 23, 2009 which stated: the subject project has been completed and inspected and all work has been performed per plans and specifications. The DPW has no objections to Indian Rock Estates (Tanglewood Drive and Bayberry Lane) being accepted as Town owned roads.

Councilor Roderick, made a motion, seconded by Councilor Durfee to accept the Public Improvements in Indian Rock Estates subdivision and release of surety. Motion passed unanimously.

Councilor Costa stated dislike of handouts at Council Meetings.

Garry Plunkett – Brief Update on Grant Request to Fund Feasibility Study for Regional Wind Energy System and Tiverton's Role in the Consortium

The memo of agreement was executed. The project is to get a grant from RI Renewable Energy for an East Bay Wide energy system. The grant application has been completed and delivered to the State. Met with a small group on Tiverton's behalf and with our own Economic Development Commission, parallel interest, grant announcement expected this summer. Drafting a request for qualifications. Shows promise, won't be easy, well worth our participation, will keep advised. Former Councilor Brian Medeiros, instrumental in getting wind power discussed, was part of the group. Mr. Plunkett has the file from the previous meetings, will keep Council informed.

BIDS & REQUESTS FOR PROPOSALS

Town Administrator/DPW Director – Request Approval to Advertise for Bids

a. Bituminous Concrete Paving

b. Washed Sand, Crushed stone, Bank Run Gravel, Screened Loan, Crushed Stone and Dense Grade

c. High Density Polyethylene Pipe (HDPE)

d. Catch basin Blocks

e. Catch Basin Frames and Grates

f. Premium Unleaded Gasoline, Dyed Off-Road Diesel Fuel

Councilor Durfee made a motion, seconded by Councilor Leonard to authorize the Town Administrator to advertise for bid the items as requested. Motion passed unanimously.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS

1. Delinquent tax notices were sent out-612 real estate, 66 tangible and 559 motor vehicle for a total of 1237.
2. Revaluation notices have been mailed. Call Certified Revaluation Co. at 475-1881 with questions. All revaluations are online at crcpropertyinfo.com
3. Met with John Flanders April 24th regards to EDC website sponsored by Newport Chamber of Commerce.
4. Submitted an earmark grant through the Chamber for \$210,000 for engineering drawings and estimates to extend utilities through the Industrial Park. Also includes other items for economic development of park. Congressman Kennedy will sponsor through Appropriations Committee this summer, plan to invite him here in June.
5. Attended dedication of the New Sakonnet Bridge, was approached by the Portsmouth Fire Chief who extended gratitude to the Tiverton Fire Dept. for their help with a recent boathouse fire. They acted professional and were instrumental in saving buildings. Thanked the Chief and his crew.
6. AFSCME implemented on April 1st. One position eliminated.
7. April-July Census takers in the area. They are just getting physical addresses of all residents.

8. Police Dept. compiled list of 70 streetlights where the Town could save money, excluding the schools, traffic safety and criminal activity. Could save an estimated \$7,500 if turned off with no cost to place back on if necessary.
9. The only curbside pick-up of yard waste will occur on the regular trash day the week of May 4 –May 8. No plastic bags. Waste should be in paper bags or approved trash barrels. Call Public Works with questions.
10. Landfill renewal license has been submitted, expect approval.
11. Received three bids for Audit Services.
12. Chief Lloyd-point of distribution drill planned for Saturday, May 16.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:
Councilors Roderick and Lambert – Updating F/Y 2009/10 Budget

Councilor Roderick commended Administrator Goncalo and the Budget Committee for their hard work on the Budget for F/Y 2009/10. Incumbent for people to take a hard look, everyone has worked diligently on this.

TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:
Memorandum Regarding Taxpayer Petition to Expend Money for a Fire Truck

Solicitor Teitz written memorandum opinion, should the FTM approve this item, it will still have to be placed before the electors at a referendum. If passed at such referendum, then the budget would need to be changed.

CLOSED EXECUTIVE SESSION
Town Solicitor - Litigation – 42-46-5(a) (2)

In Open Session, Councilor Durfee made a motion, seconded by Councilor Leonard, to enter into Executive Session pursuant to 42-46-5(a)(2)-Litigation. Motion passed unanimously.

The Council entered into Executive Session at approximately 8:15 p.m.

The Council returned to Open Session at approximately 8:30 p.m.

OPEN SESSION:

Council Vice-President Arruda announced action had been taken in Executive Session. Councilor Roderick motioned to seal the minutes of Executive Session, seconded by Councilor Leonard. Motion passed unanimously;

ADJOURNMENT:

Being no further business, Councilor Costa motioned to adjourn, seconded by Councilor Leonard. Motion passed unanimously.

Council adjourned at approximately 8:40 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk